UNITED STATES PATENT AND TRADEMARK OFFICE

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10/049,213	02/05/2002	Siani Lynne Pearson	B-4488PCT 619500-7	8050

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EXAMINER
AVERY, JEREMIAH L

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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte SIANI L. PEARSON and GRAEME J. PROUDLER

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Appeal 2007-2269
Application 10/049,213
Technology Center 2100

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Decided: March 6, 2008

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Before KENNETH W. HAIRSTON, ROBERT E. NAPPI, and MARC S.
HOFF, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of
claims 1 to 44. We have jurisdiction under 35 U.S.C. § 6(b).

We will sustain all of the rejections of record.

Appellants have invented a system and a method of restricting user
operations on data on a computer platform. An access profile at the
computer platform specifies license permissions of users with respect to the
data. A secure operator at the computer platform checks the access profile

of a user identity presented to the computer platform in a portable trusted module to determine whether a requested operation is licensed for the user identity contained in the portable trusted module. The secure operator prevents the user's requested operation if a license is required, and such a license is not present at the computer platform (Figures 1 to 3 and 6; Specification 3, 4, and 8 to 14).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A computer system adapted to restrict operations on data, comprising:

a computer platform having a secure operator for checking whether a user of the platform is licensed to perform a requested operation on the data and for enabling use of the data;

a portable trusted module containing a user identity, wherein a trusted module is a component adapted to behave in an expected manner and resistant to unauthorized external modification;

and an access profile specifying license permissions of users with respect to the data;

wherein the secure operator is adapted to check the access profile to determine whether a requested operation is licensed for the user identity contained in the portable trusted module and prevent the requested operation if a license is required and not present.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

| Pare, Jr. | US 5,870,723 | Feb. 9, 1999 |
| Muftic | US 5,943,423 | Aug. 24, 1999 |

Smithies   US 6,091,835   Jul. 18, 2000

The Examiner rejected claims 1 to 15, 18 to 22, 24, and 26 to 44 under 35 U.S.C. § 102(e) based upon the teachings of Muftic.

The Examiner rejected claims 16, 17, and 25 under 35 U.S.C. § 103(a) based upon the teachings of Muftic and Smithies.

The Examiner rejected claim 23 under 35 U.S.C. § 103(a) based upon the teachings of Muftic and Pare, Jr.

<div align="center">ISSUE</div>

The Examiner contends that Muftic describes all of the claimed computer system structure set forth in claims 1, 18, and 27 (Final Rejection 3 and 4), whereas Appellants contend that Muftic fails to disclose a portable trusted module "adapted to behave in an expected manner and resistant to unauthorized external modification," and an access profile "specifying license permissions of users with respect to the data" at the computer platform as set forth in claims 1, 18, and 27 (Br. 6). Thus, the issue before us is whether Muftic describes the claimed computer system structure including a portable trusted module and an access profile?

<div align="center">FINDINGS OF FACT</div>

1. As indicated *supra*, Appellants describe a system and a method of checking the access profile of a user of data at a computer platform to determine whether a requested operation is licensed for a user identity contained in a portable trusted module.

2. Muftic describes a method and a system that uses a smart card in conjunction with a computer platform in an electronic transaction and identification system for secure business transactions (Abstract; col. 1, ll. 11 to 16). The computer platform has a secure operator for checking whether a

user of the platform is licensed to access software data resident on the computer platform (col. 5, ll. 23 to 54). A portable trusted module in the form of a smart card contains the identity of a user (col. 4, ll. 6 to 10; col. 6, ll. 4 to 8). The encrypted smart card is a portable trusted module that behaves in an expected manner and is resistant to unauthorized external modification (col. 3, ll. 38 to 42; col. 6, ll. 32 to 49). Muftic stores an access profile that specifies license permissions of users with respect to the software data (col. 5, ll. 48 to 54). The secure operator checks the access profile to determine whether a requested operation is licensed for the user identity contained in the portable trusted module, and prevents the requested operation on the software data if a license is required and is not present for the user (col. 5, l. 67 to col. 6, l. 31).

3. Smithies was cited by the Examiner for a teaching of a platform trusted component "adapted to log requests to the operating system to perform particular operations on the data (column 11, lines 51-67, column 16, lines 39-60, column 19, lines 16-24, column 26, lines 37-42, column 27, [lines] 49-60, column 42, lines 53-67 and column 43, lines 1-11)" (Ans. 14).

4. Pare, Jr. was cited by the Examiner for a teaching of a data protector that "checks that there are not multiple copies of the data stored within the computer platform and prevents data execution if there are multiple copies (column 13, lines 12-19, 26-49)" (Ans. 16).

PRINCIPLES OF LAW

Anticipation is established when a single prior art reference discloses expressly or under the principles of inherency each and every limitation of the claimed invention. *Atlas Powder Co. v. IRECO Inc.*, 190 F.3d 1342,

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1347 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1478-79 (Fed. Cir. 1994).

The Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

The claims on appeal should not be confined to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc).

During ex parte prosecution, claims must be interpreted as broadly as their terms reasonably allow since Applicants have the power during the administrative process to amend the claims to avoid the prior art. *In re Zletz*, 893 F.2d 319, 322 (Fed. Cir. 1989).

ANALYSIS

As indicated *supra* in finding of fact number 2, Muftic describes a computer platform with a secure operator, a portable trusted module, and an access profile as set forth in claims 1, 18, 20, and 27 on appeal. Appellants' argument that the smart card in Muftic is not a portable trusted module (Br. 6) is without merit, since the smart card[1] described by Muftic operates "in an expected manner," and is "resistant to unauthorized external modification" as set forth in the claims on appeal. With respect to the claimed "access profile" (Br. 6), license permissions for access to the software data are clearly set forth in columns 5 and 6 of Muftic as indicated *supra*. Muftic allows other *"users"* to access software data based on their access profiles

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[1] Claim 40 on appeal states that the portable trusted module is located within a smart card.

(Br. 6). In view of the broadly claimed subject matter set forth in claims 1, 18, 20, and 27, we disagree with the Appellants' argument (Br. 7) that the Examiner should not have *"broadly interpreted"* the disclosure set forth in Muftic. We also disagree with the Appellants' argument (Br. 7) that the Examiner incorrectly interpreted the smart card disclosure in Muftic as a disclosure of a portable trusted module. As indicated *supra*, the smart card used by Muftic is the same smart card technology disclosed and claimed by Appellants. Inasmuch as smart cards are discussed throughout the disclosure in Muftic, Appellants' argument that Muftic only makes a "cursory mention" of smart cards is without merit (Br. 7).

In summary, the anticipation rejection of claims 1, 18, 20, and 27 is sustained. In the absence of patentability arguments for claims 2 to 15, 19, 21, 22, 24, 26, and 28 to 44, the anticipation rejection of these claims is likewise sustained.

Turning to the obviousness rejections of claims 16, 17, 23, and 25, the obviousness rejections are sustained because of the lack of patentability arguments directed to these claims.

CONCLUSIONS OF LAW

Anticipation of the broadly claimed subject matter set forth in claims 1 to 15, 18 to 22, 24, and 26 to 44 has been established by the Examiner.

Obviousness of the broadly claimed subject matter set forth in claims 16, 17, 23, and 25 has been established by the Examiner.

ORDER

The anticipation rejection is affirmed, and the obviousness rejections are affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

<u>AFFIRMED</u>

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